

Appl. No. 09/321,323  
Filed: August 2, 2001  
Page 6

### REMARKS

This RCE is filed in order to obtain consideration of the concurrently-filed Declaration Under 37 CFR 1.132 by coinventor Jay Darrell Gillespie.

In the previously filed Appeal Brief, Applicant has presented detailed arguments concerning the combination of the Taylor and Kent reference teachings. To avoid repetition, applicant expressly reiterates the points made in the Appeal Brief.

In response to applicant's arguments that the Kent and Taylor patents are directed to two entirely different technologies, the Examiner has acknowledged that the Kent and Taylor patents are directed to two different fields of endeavor. However, the Examiner contends that Kent is considered to be highly pertinent to the particular problem with which the applicant is concerned. The Examiner concludes that it is reasonable to use the teaching of Kent in the Taylor process to create a contaminant-filled bicomponent polypropylene fiber instead of polyamide.

Applicant submits herewith a Declaration Under 37 CFR 1.132 by coinventor Darrell Gillespie as further evidence of the impropriety of this rejection. Mr. Gillespie has first-hand experience with the spunbond manufacturing equipment used in the manufacture of the product described in the Taylor reference and therefore is quite familiar with the capabilities and limitations of the spunbond manufacturing equipment and process. He presents a number of factual reasons why a person of ordinary skill in the art would not reasonably assume that the technology used in the Kent carpet yarn process could be applied to the spunbond process of the Taylor reference.

In summary, the Gillespie declaration notes that there are very significant differences between the Kent carpet yarn process and product and the Taylor spunbond process and product, as follows:

- The filaments of the Kent carpet yarn are considerably larger than the filaments of a spunbond nonwoven fabric. The finer filaments of a spunbond fabric are more susceptible to breakage.
- The filaments of the Kent carpet yarn are stretched and drawn only after they have been condensed into a yarn, whereas the filaments of the Taylor spunbond process

Appl. No. 09/321,323

Filed: August 2, 2001

Page 7

remain individual and separate during stretching and drawing. Thus, there is greater opportunity for filament breakage in a spunbond process.

- The spinning speeds used in the Kent carpet yarn process are considerably slower than in a spunbond process, and the higher speeds used in a spunbond process provide a further opportunity for filament breakage.
- The Kent carpet yarn uses a different polymer (polyamide) whereas the Taylor spunbond nonwoven fabric uses polypropylene. The melt strength of a polyamide is greater than the melt strength of polypropylene, and it would not be evident to assume that a lower melt strength polypropylene could withstand the stresses of the higher spinning speeds of a spunbond manufacturing process.
- Kent teaches that his carpet yarn will tolerate the incorporate of dirt or debris in the reclaimed polymer without filament breakage. Persons knowledgeable about a spunbond process would avoid any dirt or debris in the reclaim polymer.

Taking into account the many significant differences between the manufacture of a carpet yarn and the manufacture of a spunbond nonwoven fabric, Gillespie concludes that a person of ordinary skill in the art would not assume that the techniques of polyamide carpet yarn production would be applicable to the manufacture of a spunbond polypropylene nonwoven fabric. Gillespie further concludes that there would be no reason or motivation to attempt to apply the technology of polyamide carpet yarn production to the manufacture of spunbond polypropylene nonwoven fabric.

Applicant does not concede that the Examiner has made out a *prime facie* case of obviousness. The statements from Mr. Gillespie in the accompanying declaration clearly demonstrate that the references relied upon by the Examiner are not properly combinable, and that they do not provide the motivation that is required under 35 USC 103 for modifying the teachings of Taylor in view of the Kent teachings. Accordingly, reconsideration by the Examiner and withdrawal of the rejection are solicited.

In addition, as a further failure to make out a *prime facie* case of obviousness, the Examiner's proposed combination of the Taylor and Kent does not meet all of the limitations of the claims. Applying the Kent teachings to Taylor would produce a bicomponent fiber with Kent's contaminant-containing polyamide in the core. The

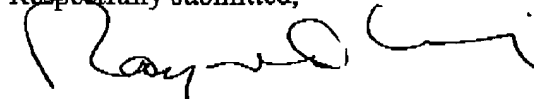
Appl. No. 09/321,323  
Filed: August 2, 2001  
Page 8

claims specify reclaimed polypropylene. Nothing in the Kent reference nor the Taylor reference would motivate one of skill in the art to depart from Kent's express teaching by changing the core from polyamide to polypropylene. The only conceivable basis for modifying the Kent teachings in this manner (i.e. changing from polyamide to polypropylene) so as to arrive at the claimed sheath and core compositions must be a hindsight reliance on applicant's own disclosure, which is clearly improper.

For the reasons noted, it is submitted that the claims clearly distinguish over the cited prior art and are in condition for allowance. Entry of this amendment and reconsideration of the rejection in light of the newly presented evidence is requested. Applicant submits that this application should now be in condition for allowance.

In the event that the Examiner decides to continue to reject the claims, we request the Examiner to clearly address in detail why the evidence submitted herewith is insufficient and to provide facts and rebuttal evidence substantiating the Examiner's conclusions as to obviousness.

Respectfully submitted,

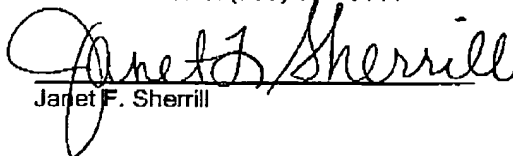


Raymond O. Linker, Jr.  
Attorney for Applicant

**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111  
CLT01/4800724v1

**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that this paper is being facsimile transmitted to the U. S. Patent and Trademark Office at Fax No. (703) 872-9306 on the date shown below.



Janet F. Sherrill

March 24, 2006  
Date